

Message

From: Webster, James [Webster.James@epa.gov]
Sent: 5/3/2019 1:42:10 PM
To: Spurlin, Steve [Spurlin.Steve@epa.gov]; Mann, Teresa [Mann.Teresa@epa.gov]
Subject: RE: Colonial/Nashville airport E19413

Ex. 5 Deliberative Process (DP)

jw

From: Spurlin, Steve
Sent: Thursday, May 2, 2019 6:16 PM
To: Adkins, William D CIV <William.D.Adkins2@uscg.mil>; miguel.l.bella@uscg.mil; Webster, James <Webster.James@epa.gov>; Mann, Teresa <Mann.Teresa@epa.gov>
Subject: Colonial/Nashville airport E19413

Enforcement Confidential-Do Not Release

Hello,

EPA attorney Teresa Mann and myself just got off a call with Colonial attorneys. What we anticipated to be an congenial exchange of information turned into a blitz conversation from former Coast Guard person (Hayes?) regarding applicability of 300.135(d) to incident. The situation is that the TN Department of Transportation drilled through pipeline resulting in discharge to surface water. Colonial has and continues to take measures to mitigate the release. The long term (groundwater, surface water quality, etc..) issues have been handed to the State, and I am preparing the final report/polrep. The former CG mentioned several times that the hand off requires a cooperative agreement pursuant to 300.135(d). In my review of 300.135(d)(see below) I think this refers to PRFA.

With the reality that there is likely a significant investigation/remediation work to follow, I believe Colonial is attempting to position itself in best position for claim to fund. I think they mentioned State sovereignty of TDOT.

300.135(d) The OSC's/RPM's efforts shall be coordinated with other appropriate federal,state, local, and private response agencies. OSCs/RPMs may designate capablepersons from federal, state, or local agencies to act as their on-scene representatives. State and local governments, however, are not authorized to take actions under subparts D and E of the NCP that involve expenditures of the Oil Spill Liability Trust Fund or CERCLA funds unless an appropriate contract or cooperative agreement has been established.

If available, I would like to have a call tomorrow to discuss. We committed to a follow up call with Colonial next week. Thanks

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